



DEPARTMENT OF COMMERCE

International Trade Administration

(A-428-843, A-588-872, A-401-809)

Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the “Department”) preliminarily determines that non-oriented electrical steel (“NOES”) from Germany, Japan, and Sweden is being sold, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (the “Act”). The period of investigation (“POI”) is July 1, 2012, through June 30, 2013. The estimated weighted-average dumping margins are listed in the “Preliminary Determinations” section of this notice. Interested parties are invited to comment on these preliminary determinations.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Patrick O’Connor at (202) 482-0989 (Germany); Thomas Martin at (202) 482-3936 (Japan); or Drew Jackson at (202) 482-4406 (Sweden); AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of these investigations on November

18, 2013.¹ Pursuant to a timely request from AK Steel Corporation (“Petitioner”) and section 773(c)(1)(A) of the Act, the Department postponed these preliminary LTFV determinations 50 days.²

Scope of the Investigations

The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to these investigations whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of these investigations is not limited to merchandise

¹ See *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations*, 78 FR 69041 (November 18, 2013).

² See *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 79 FR 13987 (March 12, 2014).

meeting the ASTM, JIS and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of these investigations are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Methodology

The Department conducted these investigations in accordance with section 731 of the Act. As noted above, the mandatory respondents did not respond to the Department's requests for information. Pursuant to section 776(a) of the Act, the Department preliminarily relied upon facts otherwise available to assign estimated weighted-average dumping margins to the mandatory respondents. Furthermore, in accordance with section 776(b) of the Act, the Department applied an inference adverse to the interests of the mandatory respondents in selecting from the facts otherwise available. For a full description of the analysis underlying our preliminary determinations, see the Preliminary Decision Memoranda for Germany, Japan, and

Sweden, which are hereby adopted by this notice.³ These Preliminary Decision Memoranda are public documents and are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <https://iaaccess.trade.gov>, and it is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building. In addition, a complete version of these Preliminary Decision Memoranda can be found on the Internet at <http://enforcement.trade.gov/frn>. The signed Preliminary Decision Memoranda and the electronic versions of the Preliminary Decision Memoranda are identical in content.

Scope Comments

For a complete discussion of scope comments received from interested parties and changes the Department made to the scope of the investigations, *see* Preliminary Decision Memoranda.⁴ The "Scope of the Investigations" section above reflects all changes.

Postponement of the Preliminary Determinations

On February 28, 2014, AK Steel Corporation (the petitioner) made a timely request for a 50-day postponement of the preliminary determinations for this and the other concurrent NOES LTFV investigations, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e).⁵ On March 12, 2014, we published our notice postponing the preliminary determinations by

³ *See* "Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation: Non-Oriented Electrical Steel from Germany" from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance; "Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation: Non-Oriented Electrical Steel from the Japan" from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance; and, "Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation: Non-Oriented Electrical Steel from Sweden" from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, each dated concurrently with these preliminary determinations (collectively, "Preliminary Decision Memoranda").

⁴ *Id.*

⁵ *See* Letter from Petitioner to the Secretary of Commerce, "Non-Oriented Electrical Steel from the People's

50 days in accordance with sections 733(c)(1)(A) and (2) of the Act and 19 CFR 351.205(f).⁶ As a result of the postponement, the revised deadline for the preliminary determinations for these investigations is now May 15, 2014.

Preliminary Affirmative Determinations of Critical Circumstances, in Part

On March 6, 2014, Petitioner filed timely critical circumstances allegations, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration from Germany, Japan, and Sweden.⁷ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department will issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. Based on our analyses, in accordance with section 733(e) of the Act and 19 CFR 351.206, we preliminarily find that critical circumstances exist for each of the mandatory respondents in the investigations concerning NOES from Germany, Japan and Sweden, and for all other producers and exporters subject to the investigations concerning NOES from Japan and Sweden. That is, with respect to these companies, we preliminarily determine that (1) importers of merchandise knew or should have known that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A) of the Act; and (2) imports of subject merchandise have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. With respect to all other producers and exporters subject to the investigation concerning NOES from Germany, including ThyssenKrupp

Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Request for Postponement of the Preliminary Determinations,” dated February 28, 2014.

⁶ See *Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 79 FR 13987 (March 12, 2014).

⁷ See Petitioner’s Critical Circumstances Allegations regarding Germany, Japan, and Sweden, dated March 6, 2014.

Steel Europe AG, we preliminarily do not find that critical circumstances exist.⁸

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or, *de minimis* margins or any margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. We have determined the dumping margin for each of the mandatory respondents in the Germany, Japan, and Sweden investigations entirely under section 776 of the Act. Therefore, the only available dumping margins for these preliminary determinations are found in the petition. Pursuant to section 735(c)(5)(B) of the Act, and the Department's practice under these circumstances we calculated the all others rate as a simple average of the margins from the petition.⁹ For a full description of the methodology underlying our preliminary determinations, see the Preliminary Decision Memoranda.¹⁰

⁸ For a full description of the methodology and results of our critical circumstances analysis, see the Preliminary Decision Memoranda.

⁹ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan*, 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

¹⁰ See "Non-Oriented Electrical Steel from the Federal Republic of Germany: Calculation of All Others Rate" from Patrick O'Connor, International Trade Compliance Analyst, Office IV, to The File; "Non-Oriented Electrical Steel from Japan: Calculation of All Others Rate" from Thomas Martin, International Trade Compliance Analyst, Office IV, to The File; and "Non-Oriented Electrical Steel from Sweden: Calculation of All Others Rate" from Drew Jackson, International Trade Compliance Analyst, Office IV, to The File, each dated concurrently with these

Preliminary Determinations

The Department preliminarily determines that the following estimated weighted-average dumping margins exist for the producers or exporters during the period July 1, 2012, through June 30, 2013 at the following rates:

Germany

Producer or Exporter	Rate
CD Walzholz	98.84 %
Thyssenkrupp Electrical Steel EBG GMBH	98.84 %
All Others	86.29 %

Japan

Producer or Exporter	Rate
JFE Steel Corporation	204.79 %
Sumitomo Corporation	204.79 %
All Others	135.59 %

Sweden

Producer or Exporter	Rate
Surahammars Bruks AB	126.72 %
All Others	98.46 %

preliminary determinations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan*, 73 FR 39673, 39674 (July 10, 2008) (where the Department determined the all others rate using a simple average of the alleged dumping margins from the petition).

Disclosure

We will disclose the calculations performed to parties in this proceeding within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

Because none of the mandatory respondents in these investigations provided information requested by the Department and the Department preliminarily determines each of the mandatory respondents to have been uncooperative, verification will not be conducted.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct Customs and Border Protection (“CBP”) to suspend liquidation of all entries of NOES from Germany from companies receiving the “all others” rate that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, because we have preliminarily found that critical circumstances exist in the Japan and Sweden investigations with regard to the mandatory respondents and companies receiving the “all others” rate as well as for the mandatory respondents in the Germany investigation, we will instruct CBP to suspend liquidation of relevant entries from Germany, Japan, and Sweden entered, or withdrawn from warehouse, for consumption up to 90 days prior to the date of publication of this notice in the *Federal Register*, pursuant to section 733(e)(2) of the Act.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit as follows: (1) The cash deposit rates for mandatory respondents will be equal to the rates that we have determined in these preliminary determinations for these respondents; (2) if the exporter is not a mandatory respondent identified in one of these investigations but the producer is, the cash deposit rate will be the specific rate established for the producer of the subject merchandise in these preliminary determinations; and (3) the cash

deposit rate for all other producers or exporters will be equal to the country-specific “all others” rate determined in these preliminary determinations. These suspension of liquidation instructions will remain in effect until further notice.¹¹

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission (“ITC”) of our preliminary affirmative determinations. In accordance with section 735(b)(2) of the Act, if the Department's final determinations are affirmative, then the ITC will determine before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations whether imports of NOES from Germany, Japan, and Sweden are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Interested parties are invited to comment on these preliminary determinations. Interested parties may submit case briefs to the Department no later than thirty days after the publication of these preliminary determinations. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days of the deadline date for the submission of case briefs.¹² A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department.¹³ Executive summaries should be limited to five pages total, including footnotes. Case and rebuttal briefs must be submitted to the Department electronically using IA ACCESS.¹⁴ An electronically-filed document must be received successfully in its entirety by IA ACCESS by 5 p.m. on the date the document is due.

¹¹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

¹² See section 351.309(d) of the Department's regulations.

¹³ See section 351.309(c)(2) of the Department's regulations.

¹⁴ Electronic filing requirements via IA ACCESS can be found at section 351.303 of the Department's regulations; see also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party by electronically filing the request via IA ACCESS.¹⁵ Any interested party may request a hearing within 30 days of publication of this notice.¹⁶ Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. If a timely request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.¹⁷ Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Oral presentations will be limited to issues raised in the briefs.

Notification to Interested Parties

These preliminary determinations are issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: May 15, 2014.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

¹⁵ *Id.*

¹⁶ See section 351.310(c) of the Department's regulations.

¹⁷ See section 351.310(d) of the Department's regulations.

List of Topics Discussed in the Preliminary Decision Memoranda

1. Summary
2. Background
3. Period of Investigation
4. Scope Comments
5. Scope of the Investigation
6. Comments on Physical Characteristics and Model Matching Hierarchy
7. Application of Facts Available and Use of Adverse Inference
8. All Others Rate
9. Critical Circumstances
10. Conclusion

[FR Doc. 2014-11906 Filed 05/21/2014 at 8:45 am; Publication Date: 05/22/2014]